

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA  
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4 ALLSTATE INSURANCE COMPANY, et al, )  
5 Plaintiffs, )  
6 v. )  
7 MARJORIE BELSKY, et al., )  
8 Defendants. )  
9 \_\_\_\_\_ )

Case No. 2:15-cv-02265-MMD-CWH

**ORDER**

10 Presently before the court is Defendant Marjorie Belsky's motion to stay (ECF No. 146),  
11 filed on May 9, 2017. Plaintiff Allstate Insurance Company filed a response (ECF No. 161) on May  
12 22, 2017, and Defendant filed a reply (ECF No. 168) on May 30, 2017.

13 Defendant moves to stay all proceedings in this case pending the Court's decision on her  
14 motions for disqualification of counsel (ECF No. 112). Defendant argues that she would be  
15 prejudiced by Plaintiff's counsel's continued involvement in this matter, and Plaintiff's use of  
16 allegedly stolen material, and that the only way to prevent such prejudice is to stay this case pending  
17 the Court's decision on the underlying motion. Plaintiff opposes a stay, arguing that Defendant's  
18 motion to disqualify is unlikely to be granted, and that in any event, there is no controlling authority  
19 which holds that courts should grant a stay pending a motion to disqualify.

20 **I. Legal Standard**

21 It is within the Court's broad discretion over discovery to determine whether a stay of  
22 discovery is appropriate. *Little v. City of Seattle*, 863 F.2d 681, 685 (9th Cir. 1988). In order to  
23 determine if a stay is appropriate, courts considers whether (1) the pending motion is potentially  
24 dispositive of the entire case or at least dispositive of the issue on which discovery is sought, and (2)  
25 the motion can be decided without additional discovery. *Ministerio Roca Solida v. U.S. Dep't of*  
26 *Fish & Wildlife*, 288 F.R.D. 500, 506 (D. Nev. 2013). Courts considering stays in this district have  
27 found that this standard is not easily met (*Kor Media Grp., LLC v. Green*, 294 F.R.D. 579, 583 (D.  
28

1 Nev. 2013)), and that “[a]bsent extraordinary circumstances, litigation should not be delayed simply  
2 because a non-frivolous motion has been filed.” *Id.* (quoting *Trzaska v. Int’l Game Tech.*, 2011 WL  
3 1233298, at \*3 (D. Nev. Mar. 29, 2011)). The Court’s presumption then, is that litigation should  
4 proceed uninterrupted.

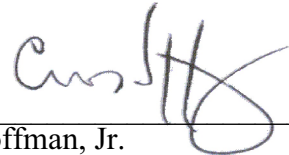
5 Here, the pending motions before the Court are not dispositive, and as both parties concede,  
6 there is no binding authority for this Court as to when a stay pending resolution of a motion to  
7 disqualify is appropriate. Def’s Resp. at 3 (ECF No. 161); Pl’s. Reply at 3-4 (ECF No. 168).  
8 Defendant argues that the Court should stay proceedings as a matter of course when a motion to  
9 disqualify is made. However, Defendant’s argument relies primarily on three cases that do not  
10 directly support her conclusion. The first two come to a much narrower holding--that it would be a  
11 mistake for a court to avoid considering a motion to disqualify by granting summary judgment and  
12 then denying the motion to disqualify as moot. *Grimes v. D.C.*, 794 F.3d 83, 90 (D.C. Cir. 2015)  
13 (holding that a district court erred by denying as moot a plausible claim of a conflict of interest after  
14 granting a motion for summary judgment). *See also Bowers v. Ophthalmology Grp.*, 733 F.3d 647,  
15 654 (6th Cir. 2013) (holding that a district court must rule on a motion for disqualification prior to  
16 ruling on a dispositive motion). Similarly, the third case Defendant relies on merely notes that a  
17 motion for disqualification should be resolved before moving on to “issues of fact.” *Allergia, Inc. v.*  
18 *Bouboulis*, No. 14-CV-1566 JLS (RBB), 2015 WL 11735651, at \*5 (S.D. Cal. May 5, 2015). The  
19 Court does not find any persuasive authority among Defendant’s citations for a *per se* rule that a  
20 pending motion for disqualification warrants a general stay of all proceedings. On the contrary, the  
21 *Allergia* court makes specific note of the Ninth Circuit’s warning that “[b]ecause disqualification  
22 motions can be misused for tactical purposes, they should be subjected to particularly strict judicial  
23 scrutiny.” *Shurance v. Planning Control Int’l, Inc.*, 839 F.2d 1347, 1349 (9th Cir. 1988). An  
24 automatic stay of all proceedings upon filing of a motion to disqualify would be inconsistent with the  
25 exercise of “particularly strict judicial scrutiny.”

26 Given that Defendant’s pending motions are not dispositive, the fact that motions to  
27 disqualify are prone to tactical misuse, and the general presumption against staying litigation, the  
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1 Court not convinced a stay is necessary.

2 IT IS THEREFORE ORDERED that Defendants' motion to stay (ECF No. 146) is DENIED.

3 DATED: June 22, 2017

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6 C.W. Hoffman, Jr.  
United States Magistrate Judge